

AMENDED IN SENATE JULY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 395

Introduced by Assembly Member Fuentes

February 23, 2009

An act to amend Section 3072 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 395, as amended, Fuentes. Employment: apprenticeship programs.

Under existing law, the Director of Industrial Relations is the Administrator of Apprenticeship and is authorized to appoint assistants necessary to effectuate the purposes of state law governing apprenticeships. Existing law requires, with certain exceptions, that all workers employed on public works be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed and establishes prevailing wage requirements with regard to holiday and overtime work. Existing law requires that every apprentice employed on public works projects be paid the prevailing rate of per diem wages for apprentices in the trade for which he or she is registered and that employers who employ apprentices on public works projects comply with other specified provisions. Existing law exempts certain public works projects from the prevailing wage requirements applicable to workers if the awarding body contracting for public work initiates and enforces a labor compliance program that meets specific statutory and regulatory requirements and ensures compliance with prevailing rate wage laws. Existing law requires that all labor compliance programs obtain the approval of the director.

This bill would provide that an awarding body that implements an approved labor compliance program may, upon mutual agreement with the Chief of the Division of Apprenticeship Standards *and at his or her discretion*, assist the director in the enforcement of prevailing rate wage laws and other requirements that apply to apprenticeships in public works projects through the operation of that approved labor compliance program *under terms and conditions prescribed by the Chief of the Division of Apprenticeship Standards*. The bill would allow a contractor to appeal the result of a labor compliance program enforcement action related to apprenticeships in public works projects through specified procedures. The bill would provide that, if the involvement of the Chief of the Division of Apprenticeship Standards in a labor compliance program enforcement action is limited to a review of an assessment and the matter is resolved without litigation, the awarding body that has implemented the labor compliance program shall enforce any applicable penalties and shall deposit any penalties and forfeitures collected in its general fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3072 of the Labor Code is amended to
2 read:
3 3072. (a) The Director of Industrial Relations is ex officio the
4 Administrator of Apprenticeship and is authorized to appoint
5 assistants as necessary to effectuate the purposes of this chapter.
6 (b) An awarding body, as defined in Section 1722, that
7 implements an approved labor compliance program pursuant to
8 subdivision (b) of Section 1771.5 may, upon mutual agreement
9 with the Chief of the Division of Apprenticeship Standards *and at*
10 *his or her discretion*, assist the director in the enforcement of
11 Section 1777.5 through the operation of that approved labor
12 compliance program *under the terms and conditions prescribed*
13 *by the Chief of the Division of Apprenticeship Standards*.
14 (c) A contractor may appeal the result of a labor compliance
15 program enforcement action related to Section 1777.5 through the
16 procedures described in Section 1777.7.
17 (d) If the involvement of the Chief of the Division of
18 Apprenticeship Standards in a labor compliance program

1 enforcement action is limited to a review of an assessment and the
2 matter is resolved without litigation by or against the chief, the
3 awarding body that has implemented the labor compliance program
4 shall enforce any applicable penalties, as specified in Section
5 1777.7, and shall deposit any penalties and forfeitures collected
6 in its general fund.

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